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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/688,588

10/18/2003

Robert Kincaid

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EXAMINER

SIMS, JASON M

ART UNIT

PAPER NUMBER

1631

NOTIFICATION DATE

DELIVERY MODE

10/10/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

Office Action Summary	Application No. 10/688,588	Applicant(s) KINCAID, ROBERT	
	Examiner Jason M. Sims	Art Unit 1631	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22, 40-50 and 56-60 is/are pending in the application.
- 4a) Of the above claim(s) 15, 16, 21 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 17-20, 22, 40-47, 49, 50 and 56-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some.* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's arguments, filed 6/22/2007, have been fully considered but they are not deemed to be persuasive. The following rejections and/or objections are either reiterated or newly applied. They constitute the complete set presently being applied to the instant application.

Applicants have amended their claims, filed 6/22/2007, and therefore rejections newly made in the instant office action have been necessitated by amendment.

Claims 15, 16, 21, 48 have been withdrawn as they are drawn to non-elected subject matter.

Applicant's cancellation of claims 23-39, 51-55, and 61-64 in the amendment filed 6/22/2007 has been acknowledged.

Claims 1-14, 17-20, 22, 40-47, 49-50, and 56-60 are the current claims hereby under examination.

Terminal Disclaimer

The terminal disclaimer filed on 6/22/2007 disclaiming the terminal portion of any patent granted on application number 10/403,262 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 112

Response to arguments:

Applicant's arguments, filed 6/22/2007, with respect to the rejections of claims 1-14, 17-20, 22, 40-47, 49-50, and 56-60 under 35 USC 112 second paragraph for

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comprising vague and indefinite language and lacking antecedent basis have been fully considered and are persuasive because of applicant's arguments and amendments.

Therefore the rejections have been withdrawn.

Newly applied rejections:

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 1-14, 17-20, 22, 40-47, 49-50, and 56-60 are rejected under 35

U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 43, and 56 have an unclear relationship between the preamble and the method steps, which causes said claims to be vague and indefinite. It is not clear as to what relationship is intended as no steps result in the intended "use" recited in the preamble. Therefore, there is no clear correlation between the preamble and steps. Furthermore, since said claims do not achieve the preamble, there are apparent missing steps in said claims.

Claims 43-47, 49, and 50 contain means plus function language in each of the steps of claim 43 and in claims 44-47, 49, and 50; such as "a means for providing data items arranged in an $n \times m$ matrix, n equaling the number of columns in the matrix and m equaling the number of rows in the matrix, and wherein each column of the matrix relates to a characteristic described by the data items therein, wherein each said data item in the same column represents the same characteristic, although the values of said

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data items in the same column may differ from one another" etc., where there is no specific structure identified in the specification to correspond to the claimed function of each of means plus function language in each of the steps of claim 43 and in claims 44-47, 49, and 50. A consideration of the understanding of one skilled in the art in no way relieves the patentee of adequately disclosing sufficient structure in the specification for such means plus function. For the instant indefiniteness analysis it is asked first whether a structure is described in the specification, and, if so, whether one skilled in the art would identify the structure from the description. The inquiry is whether one of skill in the art would understand the specification itself to disclose a structure, not simply whether that person would be capable of implementing a structure. Accordingly, a bare statement that known techniques or methods can be used does not disclose structure. To conclude otherwise would vitiate the language of the statute requiring "corresponding structure, material, or acts described in the specification. Therefore, it is not enough to say one of ordinary skill in the art would know how to implement said means plus function, but the patentee must state a specific structure, which one of ordinary skill in the art would recognize as implementing said means.

Claims 2-14, 17-20, 22, 40-42, and 57-60 are rejected as being dependent from a rejected claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

35 U.S.C. § 101 reads as follows:

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"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title."

Claims 1-14, 17-20, 22, 40-47, 49-50, and 56-60 are rejected under 35 U.S.C. § 101 because the claimed invention lacks patentable utility due to its not being supported by a specific, substantial, and credible utility or, in the alternative, a well-established utility.

The claimed subject matter is not supported by a specific, substantial, and credible utility because the disclosed uses are generally applicable to broad classes of this subject matter. In addition, further characterization of the claimed subject matter would be required to identify or reasonably confirm a "real world" use. The examiner does not find an adequate nexus between the evidence of record and the asserted properties for the claimed subject matter.

It is noted that the claims are directed to a method, system, or computer-readable medium carrying a sequence of instructions for displaying and manipulating data to facilitate identification, trends, correlations, or other useful relationships among the data wherein the method steps recited merely result in displaying rows of the rearranged rows of data in the matrix for observation by a user without achieving the preamble. Therefore, if the claimed method steps achieved the preamble the claims would have utility. However, the claims result in displaying a data listing without knowing what the data is doing and therefore no utility is apparent.

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Claims 1-14, 17-20, 22, 40-47, 49-50, and 56-60 are also rejected under 35 U.S.C. § 112, first paragraph. Specifically, since the claimed invention is not supported by a specific, substantial, and credible utility or a well-established utility for the reasons set forth above, one skilled in the art would not know how to use the claimed invention.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Sims, whose telephone number is (571)-272-7540.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Marjorie Moran can be reached via telephone (571)-272-0720.

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

// Jason Sims //

Marjorie A. Moran
SPE, #01631
10/11/07